HMT – Call for Input

Future of Payments Review 2023

An independent report led by Joe Garner

Ordo response

Submission to: futureofpaymentsreview@hmtreasury.gov.uk on 1 September 2023

Introduction

What does Ordo do?

Ordo's fully hosted and customisable open banking-enabled payments managed services provide businesses – large and small – with low cost, highly secure, real-time and easy to use Request to Pay, e-commerce, Point of Sale/QR Code, invoice and contact centre payments direct from their customer's ASPSP accounts into their own ASPSP accounts for both single and recurring payments.

Businesses can access the Ordo managed service in a number of ways: though an Ordo Merchant Acquirer/PSP payments partner, such as Pay360 or Contis, directly via Ordo's business level APIs, and for smaller businesses, through our integrations with QuickBooks, Sage, and Xero accounting software or via Ordo's web/app interfaces.

Ordo also uses open banking to enable refunds and secure customer pay outs as well as account validation services and has fully managed VRP enabled services, initially for sweeping, allowing businesses to take advantage of the latest open banking technology with minimal development and integration effort.

Ordo's cloud hosted managed service is fully white labelled allowing business's own brand and look & feel to be incorporated into all customer interactions, giving a consistent customer experience but without the overhead of developing and keeping up to date their own open banking customer journey.

Who are Ordo?

Ordo was founded by the former management team of the UK's Faster Payment Scheme in 2018 to use Open Banking payments to provide businesses with a much-needed alternative to slow, high-cost card payments and insecure direct ASPSP payments. Ordo is authorised by the Financial Conduct Authority as an Authorised Payments Institution to carry out Account Information Services and Payment Initiation Services (FRN 836070). Ordo is backed by private investors, Nationwide Building Society Ventures and CGI, the global IT services business.

Consultation response

We note HM Treasury have commissioned this independent review, being led by Joe Garner, to understand views regarding the UK's position as a global leader in payments, to ensure the UK can (continue to) deliver world leading retail payments, and boost UK fintech competitiveness, and as set out at:

https://www.gov.uk/government/publications/future-of-payments-review-2023/future-of-payments-review-2023-call-for-input#about-the-call-for-input

We note this review is from a 'consumer needs' lens, where consumers in this context means both individuals and businesses making and receiving retail payments. The aim of this review is to be able to make recommendations for government, financial services regulators and industry.

Stakeholders are invited to provide views on the following questions:

1. What are the most important consumer retail payment journeys both today and in the next 5 years? For example, paying a friend, paying a bill, paying businesses for goods and services, in the UK or internationally etc.

Since Faster Payments ('FP') went live in 2012, and with the roll out and adoption of mobile banking, consumers have had direct ways to pay each other, and usage of FP has been growing. It is prone to mistakes being made from the manual inputting required of information unfamiliar to the party inputting, and fraud-prone due to APP fraud. Open Banking puts a user friendly, secure digitally joined up wrapper around that unsatisfactory FP journey, for both P2P, C2B and SME2B payments. We expand further on the importance of Open Banking to the UK in answer to question 3 below. As competition has led to free in credit banking for consumers in the UK, it is hard to monetise P2P payments, and the instances of innovation for P2P beyond customer initiated Faster Payments are limited as a result of this. However, these customer-initiated Faster Payments (via mobile banking), when enhanced by Confirmation of Payee (CoP) to ensure accurate payment routing, provide an effective P2P payments solution, given the underlying real time, 24x7, irrevocable nature of Faster Payments.

International payments, are subject to growing innovation from competition, but anyway are still a small proportion of consumer's payments.

The PSR has set part of its strategy to enable new payment methods that can compete with the duopoly of the card schemes, and this is needed to come to fruition to make an impact for businesses and consumers. Open Banking and Faster Payments (and in due course the clearing and settlement service in the New Payments Architecture/NPA) can provide this competition. It can be applied to all online payments, including paying bills, dealing with finances and includes eCommerce.

We agree that consumer and small business payments to businesses for products and services, including bill payments, single payments and recurring/subscription payments, which today are dominated by card payments, are the most important retail payment journeys today, and are in needed of greater competition to deliver innovation and lower costs of payments, whether paid by the payer or payee. This is the case now, and without further governmental and regulatory interventions, is still going to be the case in 5 years' time.

2. For these journeys today, how does the UK consumer experience for individuals and businesses compare versus other leading countries? For example, the quality of experience, security or cost.

The UK currently does not have a strong, widely adopted direct account to account proposition for payments to businesses, if comparing to the likes of e.g. Ideal in the Netherlands. The prevalent payment method for consumers paying businesses in the UK is via the dominant card schemes. With the ever increasing move to a digital, including cashless, society the card scheme will only become more dominant and the holders of even more valuable data, hence the need for a new digitised payment method to compete with cards being so important.

3. Looking at the in-flight plans and initiatives across the payments landscape, how likely are they to deliver world leading payment journeys for UK consumers? For example, we welcome suggestions that you feel would support, or are essential to delivering, world leading payments for UK consumers.

In terms of services to consumers and SMEs, the heart of the UK's strategic payments landscape is Open Banking. The current agenda for Open Banking is being delivered through the JROC agenda and activity. (While the NPA is a major industry effort, this is more focussed on central technology upgrades and infrastructure cost reduction, not service innovation for consumers.)

The JROC work and Open Banking has two areas to tackle if the UK is to become a global leader in payments once more through the widespread adoption of open banking services as competition to cards:

a. tactically – fraud prevention vs. payments prevention; and
b. strategically – the extension of Variable Recurring Payments ('VRP') beyond sweeping.

These issues can be described as follows:

a. Tactically – fraud prevention vs. payments prevention

The problem of fraud and, in particular, APP fraud over Faster Payments, needs to be properly addressed. We agree that better mechanisms need to be in place to protect innocent victims of fraud, but if, through false positives, these mechanisms more often than not simply block Faster Payments being adopted as a competitor to cards, then cards will remain dominant. However, the PSR's recent policy for 50/50 receiver and sender bank liability is only going to be partially effective at tackling real fraud and does nothing to reduce false positives and their negative effect on Faster Payments adoption for legitimate payments.

<u>Current situation</u>

Today, the sending bank holds all the potential liability for APP fraud for which victims are not compulsorily compensated. The result of this for all direct bank transfers across FP, including Open Banking, is that banks generally stop <u>any</u> payments, irrespective of fraud profile, at around £1,500. This does not tackle fraud; it merely stops payments and is severely damaging the Open Banking nascent market. The side-effect on Open Banking of this approach is particularly damaging as these steps prevent the migration of higher value payments from cards, where the potential savings for businesses, and their customers, are greatest. This fraud prevention approach has effectively killed off one of the early adopter sectors for Open Banking, automotive payments, and is making Open Banking an ineffective competitor, where it could make the most difference, in a number of other sectors.

PSR's 50/50 policy

The PSR's recent policy makes, except in some circumstances, reimbursement of victims compulsory, and splits liability for such reimbursement 50/50 between sending and receiving bank. This is the wrong approach. We believe the shared sending and receiving bank liability model, while superficially attractive, will reduce APP fraud by incentivising the receiving bank to take its KYC and account management responsibilities more seriously, but will do nothing to reduce the false positives resulting from sending banks using the only indicator they have for fraud, size of payment, to hold up payments, impacting commerce through FP, whether direct or via Open Banking. A*ll* payments irrespective of their risk will continue to be stopped, *hindering payments*, and threatening the Open Banking market, *rather than stopping fraud*.

Our view – 100% receiver bank liability

Our view is that APP Scam liability should be on the receiving bank, the entity who has KYC-ed a fraudster, is providing bank account services to a criminal, and is breaching its ongoing AML obligations. In addition, it is the receiving bank that has a richer and more accurate view of what the account should be used for, and the frequency and amounts that are likely to be received into the account, as well as the history of received payments, affording the receiving bank a rich, unique and insightful view of usual and expected bank account activity, or otherwise. Holding a suspicious received payment for review before crediting their customer means that the transaction is not interrupted, commerce can proceed, and once the receiving party has confirmed their legitimacy their bank can learn and know not to hold up payments in the future. Receiving bank review also allows banks to pick up low value, high frequency fraud which is not possible in the current model.

Placing liability on the sending bank incentivises banks to stop payments, not prevent fraud. Placing liability on the receiving bank incentivises banks to conduct proper due diligence of their customer and appropriately monitor received funds, preventing fraud. The rate of false positives that result from sending bank liability will be, and is, huge, and it will not catch what banks deem as acceptable risk – lower value payments, but which are still significant and damaging amounts to lose for victims. Conversely, receiving bank liability, due to the fuller view the receiving bank has, will catch all values of fraud, with false positives having a much lesser impact. Indeed, where a receiving bank is suspicious of an amount received, the receiving bank can ring fence the funds pending its further investigation; whether found fraudulent or not, the payment has been made; if fraudulent, the criminal rightly never receives the funds and these can be repatriated in full with nearly all harm averted, and where the payment was not fraudulent, funds can be released to the receiving customer at a slight delay.

In order for the UK to regain its competitive place as a global leader in payments, it needs to enable the growth in Open Banking payments as a competitor to cards and tackle the blight that is fraud. The PSR's proposed 50/50 liability model will not achieve this.

b. *Strategic – the extension of Variable Recurring Payments ('VRP') beyond sweeping.*

The long-term strategy for UK payments needs to be ensuring VRP is enabled for all use cases of repeated payments, not just the use case that gives consumers an alternative to bank overdrafts, or moves funds between savings accounts. There are many advantages to VRP for different consumer sectors that would benefit from VRP. These consumer sectors, in rough priority order are:

- current card on file mandates (by providing a better control, lower cost alternative to recurring card payments),
- customers who would be lifted out of the poverty premium if they were to sign up to regular payment authorities but who are unwilling to commit to blunt inflexible direct debit,
- consumers using high-cost pre-payment methods such as pre-payment cards and keys,
- consumers who want more flexibility and real-time dynamic control over repeated payments,

There are a lot of repeated and subscription payments that consumers make every day that could be paid utilising VRP but for the unwillingness of banks so far to extend VRP beyond sweeping. This unwillingness is due to the inherent conflicts of interest the banks have in their position as always debit and sometimes credit card issuers and the fact they receive revenue from these card payments, the payment method Open Banking is seeking to compete with. It is not in the banks' commercial interests to offer low cost Variable Recurring Payments as this will directly cannibalise their card fees. Fintechs (PISPs) that wish to offer these competitive services can only acquire VRP capability from the banks. Indeed, each bank has a natural monopoly for the provision of VRPs for its own customers making a market price for VRPs impossible to discover, even if banks had a commercial interest in offering them.

This inherent irreconcilable conflict needs to be overcome, somehow, if the UK is to progress once again to lead the payments landscape and, more domestically, if it wants to insulate itself from being increasingly beholden to dominant card schemes.

JROC began a process around last summer 2022 to gather input from industry on how to progress the extension of VRP. This elicited the industry's diverse views. These diverse views were summarised, but not really analysed or synthesised, in the Strategic Working Group report. JROC set up working groups including for VRP which have various sub-groups which are trying to create an industry collaborated solution to extend VRP. However, this is proving impossible due to the inherent commercial conflicts of interest of bank's as suppliers of VRP payments and bank's as competitors to VRP payments via their role as card issuers, outlined above.

Much time has been spent on discussing the same difficult issues, the nub of which are bank coverage and willingness to offer access to TPPs to initiate payments, and the price which is charged by banks to TPPs for advancing this access in a natural monopoly situation.

Most recently, the PSR has indicated it may be necessary to intervene. This has generated a little verbal positivity from banks, it remains to be seen as to whether this is followed through. At best, any proactive actions from bank's will simply be to try and avoid regulatory intervention, and will therefore not provide FinTechs with a particularly stable or certain economic and operating environment.

During the roundtable event, Joe Garner stated it was his understanding that the JROC was moving at pace. While JROC has made a good start, the issues that the JROC working groups and sub-groups are tackling are the same questions we were highlighting to the PSR before JROC was formed. We also continue to highlight these issues and challenge how an industry with competing interests, including conflicts of interest, can possibly come to agreement. Apart from some vague verbal positivity in the last week to extending VRP in response to the PSR stating it may have to intervene, there has been no progress made in the two years we have been raising the same issues with the PSR. JROC's initial progress will flounder, badly, unless this conflict is addressed head on, now. While we understand that the PSR is concerned about the time it will take for them to make a regulatory intervention, perhaps, given the clarity of the conflict of interest, and its anti-competitive nature, now is the time for Treasury to apply direct pressure to the largest bank's to recognise the inevitable and voluntarily accept a regulated price and mandated support for VRPs beyond sweeping, rather than face a costly competition investigation that will surely find against them and result in potentially punitive remedies.

The importance of VRP to the UK is too great, and the case against action too weak, to not act now.

Open Banking can play a central role in placing UK payments at the forefront of world payments, but only if APP fraud is tackled more intelligently, and VRP is quickly enabled beyond sweeping.

Lets not forget the NPA
While not vital to the future of UK payments, the NPA does need to deliver two aspects:

i) significantly lower infrastructure cost of real time payments to make Open Banking the strongest competitor it can be for cards. Central infrastructure charges to bank's need to become a fraction of a penny as opposed to a few pence per payment currently from Faster Payments. This would make the UK's real time payments system competitive with and comparable to Europe; and

ii) in order for Open Banking to compete with cards comprehensively, it will need to be suitable for a Point of Sale situation. This requires implementation of the NPA 'now or never' functionality, giving certainty to merchants immediately that the payment will be made at that moment or, in rare circumstances, will not complete, so that an alternative payment method can be accepted. These rare circumstances need to be catered for if Open Banking is to work at Point of Sale.

Conclusion
We would agree with the comment by Joe Garner in the roundtable that the UK's current problem, and lack of innovation and speed of innovation, is not a need for more innovative services; it is a problem of congestion (partially), but mainly, competition and bandwidth.

There are inherent irreconcilable conflicts which lead to anti-competitive, arguably abuse of collective dominant (in bank's unwillingness to provide access to TPPs to non-sweeping VRPs) behaviour which constrain future competition. The current regulatory response to stand up many working groups and issue many consultations puts huge pressure on the startup and scaleup FinTechs that are trying create competition. Regulators need to recognise this and also the asymmetric relationship between these resource constrained, risk capital funded innovators, and the deep-pocketed, deeply-resourced banks.

Should you wish to discuss this matter, please do not hesitate to contact Ordo.